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fka The Bank of New York as Trustee for  
the registered holders of the CWABS, Inc.,  
Asset-Backed Certificates, Series 2005-13*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

THE BANK OF NEW YORK MELLON FKA  
THE BANK OF NEW YORK AS TRUSTEE  
FOR THE REGISTERED HOLDERS OF THE  
CWABS, INC., ASSET-BACKED  
CERTIFICATES, SERIES 2005-13,

Plaintiff,

v.

NORTHGATE HOMEOWNERS  
ASSOCIATION; NEVADA ASSOCIATION  
SERVICES; MARIA LOYO-MORALES;  
KIMBERLY TIBONI; DOES 1-10,

Defendants.

Case No.: 2:16-cv-02400-MMD-VCF

**AMENDED DISCOVERY PLAN AND  
SCHEDULING ORDER**

The Bank of New York Mellon fka The Bank of New York as Trustee for the registered holders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-13 (**BoNYM**), Maria Loyo-Morales, Northgate Homeowners Association (**Northgate**), and Nevada Association Services (**NAS**) file their joint discovery plan and proposed scheduling order.

**1. Meeting:** Pursuant to FRCP 26(f) and LR 26-1(a)(1), counsel for the parties, Scott R. Lachman, Esq., R. Christopher Reade Esq. and Chad A. Harrison, Esq., conferred before Judge Cam

Ferenbach on September 13, 2023. Mr. Lachman also conferred with counsel for Nevada Association Services, Brandon Wood, Esq., in advance of the September 13 meeting.

**2. Active Claims:** As discussed at the September 13, 2023 meeting, there are currently no active claims against Defendants Northgate or NAS following the Bankruptcy Court's retroactive lifting of the automatic bankruptcy stay and affirmation of the validity of the foreclosure sale. However, as this issue and other claims and cross-claims remain somewhat unsettled, Defendants Northgate and NAS agree to provisional participation in the discovery process as outlined below.

**3. Pre-Discovery Disclosures:** Pursuant to FRCP Rule 26(a)(1), the parties will make their pre-discovery disclosures, including but not limited to any computation(s) of damages required pursuant to FRCP 26(a)(1)(A)(iii), by **Wednesday, September 27, 2023**.

**4. Areas of Discovery:** Discovery should include, but not be limited to: all claims and defenses allowed pursuant to the Federal Rules of Civil Procedure.

**5. Discovery Plan: *Special Scheduling Review Requested:*** The parties request a discovery plan of 215 days which was agreed to at the case management conference on September 13, 2023.

**6. Discovery Cut-Off Dates:** The parties propose that discovery must be commenced and completed no later than **Monday, April 15, 2024**, and be conducted as follows:

**A. Amending the Pleadings and Adding Parties:** The parties shall have until **Monday, October 13, 2023**, to file any motions to amend the pleadings to add parties.

**B. FRCP 26(a)(2) Disclosures of Experts:** Expert witness disclosures shall be made on or before **Thursday, February 15, 2024**, sixty (60) days prior to the discovery cut-off. Disclosures regarding rebuttal experts shall be made on or before **Monday, March 18, 2024**, thirty (30) days after the initial disclosures of experts. The requirements of FRCP 26(a)(2)(B) shall apply to any such disclosures.<sup>1</sup>

**C. Dispositive Motions:** The parties shall have until **Wednesday, May 15, 2024**, to file dispositive motions, thirty (30) days after the discovery cut-off. In the event the discovery cut-

<sup>1</sup> The date occurring 30 days after the initial disclosure of experts falls on Saturday, March 16, 2024. The parties agree to move this deadline to the following business day.

off is extended, the deadlines for filing dispositive motions automatically will be extended until thirty (30) days after the new discovery cut-off date

**D. Pre-Trial Order:** The parties will prepare a consolidated pre-trial order on or before **Friday, June 14, 2024**, which is not more than thirty (30) days after the date set for filing dispositive motions in the case. This deadline will be suspended if dispositive motions are timely filed until thirty (30) days after the decision of the dispositive motions or until further order of the court. The disclosure required FRCP Rule 26(a)(3) and objections thereto, shall be made in the pre-trial order.

**E. Extensions or Modifications of the Discovery Plan and Scheduling Order:** LR 26-3 governs modifications or extensions of this discovery plan and scheduling order. Any stipulation or motion to extend a deadline set forth in the discovery plan and scheduling order must be made not later than twenty-one (21) days before the subject deadline. Any stipulation or motion to extend the discovery cut-off period must be made no later than **Monday, March 25, 2024**, twenty-one (21) days before the discovery cut-off date.

**7. Other Items:**

**A.** Pursuant to the electronic discovery amendments to the Federal Rules of Civil Procedure effective December 1, 2006, the parties addressed the e-discovery issues pertaining to the format of discovery. The parties do not anticipate discovery of native files or metadata at this time, but each party reserves the right to request such electronic data as discovery progresses.

**B. Alternative Dispute Resolution:** The parties certify they met and conferred about the possibility of using alternative dispute-resolution processes including mediation, arbitration, and if applicable, early neutral evaluation (collectively, **ADR**) and determined that ADR is a viable option at this time. An in-person settlement conference is scheduled with Judge Cam Ferenbach on December 18, 2023, at 10:00 a.m. BoNYM's client representative is permitted to attend the settlement conference virtually. While not specifically addressed at the September 13, 2023 meeting, the parties also stipulate that Northgate's insurance representative may attend the settlement conference virtually rather than travel from out of state.

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**C. Alternative Forms of Case Disposition:** The parties certify they considered consent to trial by a magistrate judge and use of the short trial program and do not consent to either at this time.

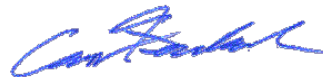
**D. Electronic Evidence:** Not applicable as no jury trial has been demanded.

DATED this 20<sup>th</sup> day of September, 2023.

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<b>GORDON REES SCULLY          MANSUKHANI, LLP</b>  <u>/s/ Chad A. Harrison</u> WING YAN WONG, ESQ. Nevada Bar No. 13622 CHAD A. HARRISON, ESQ. Nevada Bar No. 13888 300 S. 4 <sup>th</sup> Street, Suite 1550 Las Vegas, NV 89101  <i>Attorneys for Northgate Homeowners          Association</i>	<b>NEVADA ASSOCIATION SERVICES</b>  <u>/s/ Brandon Wood</u> BRANDON WOOD, ESQ. Nevada Bar No. 12900 6625 S. Valley View Blvd. Ste. 300 Las Vegas, NV 89118  <i>Attorneys for NAS</i>

**ORDER**

**IT IS SO ORDERED:**



**UNITED STATES MAGISTRATE JUDGE**

Case No.: 2:16-cv-02400-MMD-VCF

DATED: 9-21-2023